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EXAMINER

PRIETO, BEATRIZ

ART UNIT PAPER NUMBER

2142

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/658,298

Applicant(s)

SIMONE, KENNETH D.

Examiner

Prieto B.

Art Unit

2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-14 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 08 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This communication is in response to Request for Reconsideration filed 06/24/05, claims 1-14 remain pending.
2. Applicant's arguments have been carefully considered, however found not persuasive. The substance of submitted arguments have been addressed in detail below.
3. Quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action may be found in previous office action.
4. Claims 1 and 7 as amended are rejected under 35 USC 102(b) as being anticipated by McCubrey et. al. U.S. Patent No. 4,860,375 (McCubrey hereafter).

Regarding claims 1 and 7, Mc Cubrey teaches substantial features of the invention as claimed, including

a set of predetermined process definition, which are different (system 10 of Fig. 1);

an executable processes definition for modifying "editing" image data (col 3/lines 23-41, automated executable programmed processing stages see col 5/lines 8-13, execution program col 11/lines 65-12/line 11);

a plurality of components corresponding to one function of the predetermined process definition (components 24, 26, 28, 30, or 34 of Fig. 1);

an input and output port functionally related in the predetermined process definition (pipeline controller 26 of Fig. 1, providing input-output unidirectional data paths with route image data from a source component image memory to a destination component image combiner through the pipeline input/output ports col 2/lines 30-60);

a source component (24 of Fig. 1) defining a data source and defining an output port through which image data from the source is supplied (col 2/lines 30-64, col 3/lines 11-22);

a destination component (element 28 of Fig. 1) defining a data destination and defining an input through which image data from the supplying source is received (col 2/lines 30-64, col 3/lines 2-10);

binding component (element 26 of Fig. 1) interconnecting component path that associated a input port with an output port (col 2/lines 30-60);

executing the process definition col 3/lines 23-41, automated executable programmed processing stages see col 5/lines 8-13, execution program col 11/lines 65-12/line 11);

automatically, forwarding “transmitting” through a communication link (42 of Fig. 1) after modifying said image data during the execution of said process definition to a predetermined component (col 3/lines 6-10, 42-57) said modified image data to a remote device (col 5/lines 44-50, 58-col 6/line 2).

5. Quotation of 35 USC 103(a) which forms the basis for all obviousness rejections set forth in this Office action may be found in previous office action.

6. Claims 1-10, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollingsworth in view of U.S. Patent No. 5,907,837 Ferrel et. al. (Ferrel hereafter).

Regarding claim 1, Hollingsworth teaches:

providing a set of predetermined process definitions (see sections 2.1-2.1.1, pages 6-8) including different process activity steps within the process (page 14),

one process definition defining a process for processing data (section 2.1.3 on page 8, sub-processes suited to specific data type see page 19) including image data (section 2.2.1 on page 10);

storing a project definition as executable instances each corresponding to a function definition in the set, executable by workflow engines to perform functions according to the definitions, i.e. workflow logic execution or run-time (section 2.1.1 on page 6, process definition on page 12, project definition see section 2.2.5); the process definition further includes;

a plurality of function components, entities, tasks, activities “portions” which each correspond to one of said function definitions in said set of predetermined function definitions (components that handle/support operations or functions see page 12),

each function definition define interfaces (e.g. one input/output ports) that are functionally related (e.g. output supplies to an input) (Fig. 2 on page 9) according to the corresponding function definition (distribution of information supported by interfaces or points which use communication mechanism for passing messages between application components see section 2.1.4 on page 8-9, see interfaces definitions on page 9, see import/export interface (i.e. input/output port) section 3.4.2 on pages 28-29);

a “source” component, defining a “data source” and defining an output interface “port” through which said data from the data source can be produced (file store or master source page 17, accessing an object store using a defined an object name and access path via API to internetworking see p. 26-27, API are points of interchange between the workflow components see p. 20-21, see import/export interfaces section 3.4.2 on p. 28);

a “destination” component defining a “destination data” and an input interface “port” through which data from the data source is received (data is distributed across individual components from a source see page 17, see definition interchange wherein a generated output “source portion” of one component is used as on input in another “destination portion”, see page 29, Fig. 9);

“binding information” which includes connection between an input and output interface “port” through which data flows between the associated modules or components (data flow between components or products via communication mechanisms section 2.1.3, interfaces role definition see p. 15 data interchange format definition between identified components is defined for each input/output interface Fig. 6, p. 20, language bindings supporting interfaces see p.46)

executing said project definitions (workflow logic) by an engine (see p. 6) or executed by a workflow enactment software (p. 12, see section 3.3.2 p. 22); and

transmitting a communication through a communication mechanism (section 2.1.4), transmitting after processing data during execution of said project definition (Fig. 2 sequential execution of activity steps, interfaces supporting data transmission between the steps p. 9, sequential processing supported by data exchange p. 49); although Hollingsworth teaches the processing of image data in an image processing project definition and object operations including retrieval and setting of object attributes, including processing data between the source and destination component discussed above, it does not explicitly teach adapting, the modifying, assembling image data;

Ferrel teaches “process definition”, including a multimedia publishing business system providing a set of predetermined different function definitions (Fig. 1) for providing dynamic online content, said system comprising function components including a function (194) for editing image (Fig. 2, col 10/lines 34-49);

editing said image data during the execution of said function defined for editing said image (col 21/lines 54-61);

automatically transmitting content “a communication” to a remote device (120) through a communication link (e.g. accessible on-line) (col 9/lines 59-67), including create and transmit to a “remote” device created/edited content (e.g. 120 including a storage device 122) (col 10/lines 16-30), creating process includes image editing (col 10/lines 34-54) after creation published to a distribution point (col 8/lines 61-63, after creation released and stored a publication storage 120, col 9/lines 53-58).

It would have been obvious to one ordinary skilled in the art at the time the invention was made given the suggestion of Hollingsworth of the applicability of his teachings to image processing applicable in other information technology application, the teachings of Ferrel for information distribution including image processing would be readily apparent. One would be motivated to apply the secondary reference’s

teachings because in doing so, multiple users via the worklist/workitem supported by the plurality of communication protocols taught by Hollingsworth, may have content available for retrieval image data in one of several formats including image data and document data or a combination thereof, wherein the common source library database may store any type of data which can be repeatedly used, as suggested by Ferrel.

Regarding claim 2, transmitting as executing is completed (Hollingsworth: Fig. 2, p. 9)

Regarding claim 3, formatting include formatting an email (Hollingsworth: section 2.2.3, 2.1.4, data conversion see p. 25, email conversion between modules see p. 26, X.400 communication protocol, i.e. documents the format at the OSI application layer for e-mail messages over various networks transports see section 4.2, Fig. 20 on p. 47)

Regarding claim 4, communication link includes a network (Hollingsworth: section 2.1.4, data transfer between modules is networked)

Regarding claim 5, Internet (Hollingsworth: Internet based management p. 53)

Regarding claim 6, sending communication (Hollingsworth Fig. 2, p. 9)

Regarding claims 7 and 8-10 these claims comprises the computer-readable medium with a computer program, which performs the method of claims 1, and 2, 3, 6, respectively, same rationale of rejection is applicable.

Regarding claims 11-12, transmitting after processing activity or step (Hollingsworth: Fig. 2, p. 9), processing activity including image editing (Ferrel: transmitting by a publisher a communication, after editing of image to a publication storage col 9/lines 18-25, 52-58); and communication identifies an occurrence of a predetermined condition to initiate a subsequent process (Hollingsworth: Fig. 2, p. 9).

7. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollingsworth in view of Ferrel in further view of Belanger (US 6,628,824)

Regarding claims 11 and 13, although the applied references teach transmitting a communication after edit said image data, they do not explicitly teach where the condition includes a predetermined number of images.

Belanger teachings in the field of endeavor of automated processing of data, teaching a notification feature including transmitting a communication (col 9/lines 32-42), including notifying after processing a predetermine number of image data (col 9/lines 22-31).

It would have been obvious to one ordinary skilled in the art at the time the invention was made given the teachings of given the suggestions of Hollingsworth for associating image systems with computerized facilitation or automation of business process and IT applications, the teachings of Belanger for information technology particularly images would be readily apparent. One would be motivate to given Hollingsworth means for identifying the state of individual process or activity via specific commands, e.g. query process status for the number of images processed as a percentage from the total number of images on the site or electronic network pending to be processed or the total of predetermined number of image data. One would be motivated to applied Belanger teaches in Ferrel's system enabling the detection of copied images for enforcing owner's copyrights in Ferrel's publishing environment providing information retrieval services, as suggested by Belanger.

Regarding claims 13-14, these claims comprise the computer-readable medium with a computer executable program, which performs the method of claims 11-12, same rationale of rejection is applicable.

Claim Rejection under 35 USC 101

8. Claims 1 is rejected under 35 U.S.C. § 101 which reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claim 1 is rejected under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. In this case, computer-related inventions whether descriptive or functionally descriptive material are non-statutory categories when claimed as descriptive material *per se* (see *Warmerdam*, 33 F.3d at 1360 USPQ2d at 1759), falling under the "process" category (i.e. inventions at that consist of a series of steps or acts to be performed). See 35 U.S.C. 100(b) ("The term process means, art, or method, and includes a new of a known process, machine, manufacture, composition of matter or material"). Functional descriptive material: "data structures" representing descriptive material *per se* or

computer program representing computer listing *per se* when embodied in a computer-readable media are still not statutory because they are not capable of causing functional change in the computer. However, claimed computer-readable medium encoded with a data structure defined structural and functional interrelationships between the data structure and the computer software and hardware component, which permit the data structure's functionality to be realized, and is thus statutory (see MPEP 2106).

The method claim 1 do not seem to be described as being implemented in any tangible and/or limited to any tangible embodiment(s) (e.g. hardware components). As such, the claim is not limited to statutory subject matter and is therefore non-statutory. To overcome this type of rejection the claims need to be amended to include only the physical computer media or embodied on computer readable media medium, e.g. the computer-readable recording medium storing the program for performing the method, etc.

Double Patenting Rejection under 35 USC 101

10. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

11. Claim 1 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of Knutson (US 6,850,956) in view of Ferrel et. al. (US 5,907,837).

Regarding claim 1, Knutson teaches a method, comprising the steps of:

providing a set of predetermined function definitions, at least one of said predetermined function definitions defining a function for manipulating image data; and preparing a project definition, said project definition including: a plurality of function portions which each correspond to one of said function definitions in said set, and which each define at least one input port and at least one output port that are functionally related according to the corresponding function definition; a further portion which includes a source portion identifying a data source and defining an output port through which said image data from the data source can be produced, and which includes a destination portion identifying a data destination and defining an input port through which said image data can be supplied to the data destination, binding information which includes binding portions that each associate a respective said input port with one of said output ports; said image data from said data source being transferred to said source portion through a network; (see claim 1), and automatically transmitting a communication to a remote device through a communication link after editing said image data during execution of said project definition.

Ferrel teaches transmitting by a publisher (102) a communication, after editing of image to a publication storage (120) (col 9/lines 18-25, 52-58) and editing includes creating/editing image data (col 10/lines 34-49), publisher includes a computer (col 8/lines 17-27) and storage (120) includes a server (col 10/lines 26-30), storing comprising transmission of said image data to a storage device over a network (col 13/lines 9-24, i.e. remotely located). Particularly after editing image data, transmitting a communication data to said storage device (col 17/lines 18-35), over a communication link (col 43/lines 57-63), the steps of storing to said publication storage is automated (col 44/lines 15-28).

Ferrel further teaches displaying a "project" window that includes a graphical representation of said project definition (i.e. predetermined function definitions defining a function for manipulating image data) (see Fig. 24, editor (194) col 10/lines 34-39); and allowing a user to modify said project definition by interacting with said graphical representation using a pointing tool (e.g. Microsoft Visual Basic for development of a graphical environment col 10/lines 55-57, col 42/lines 6-58 include using a mouse, i.e. pointing tool); and wherein execution of said project definition operates at least in part to manipulate said image data according to said one predetermined function definition (creating/editing image data, col 10/lines 34-49, publisher includes a computer col 10/lines 17-27).

It would have been obvious to one ordinary skilled in the art at the time the invention was made given the suggestion of Hollingsworth of the applicability of his teachings to image processing applicable in other information technology application, the teachings of Ferrel for information distribution including image processing would be readily apparent. One would be motivated to apply the secondary reference's teachings because in doing so, multiple users via the worklist/workitem supported by the plurality of communication protocols taught by Hollingsworth, may have content available for retrieval image data in

one of several formats including image data and document data or a combination thereof, wherein the common source library database may store any type of data which can be repeatedly used, as suggested by Ferrel.

12. Double patent analysis has been performed with respect to *issued patents* (US 6,938,030, 6,925,593, 6,868,193, 6,944,865) having common relationship of inventorship and/or ownership with respect to the above-allowed claims, *none* are found to warrant a double patenting rejection.

Response to argument

13. Regarding claim 1 rejected as being anticipated by McCubbrey, it is argued, that the reference does not teach claim limitation as amended, specifically, the automatic transmission is a communication to a remote device after editing.

In response to the above-mentioned argument, applicant's interpretation of the applied prior art is noted. The broadest reasonable interpretation has been applied to the claimed invention. In this case, the claimed term "communication" has been interpreted as data, the claim does not define what is "communication" nor the breadth of the term exclude this interpretation, claim further limits this communication as being through a "communication link". The claimed term "remote device" has been given the broadest reasonable interpretation meaning a device accessible through a communication link.

McCubbrey teaches where "pixel data output from the pipeline processor is routed into the combiner where it may be operated on with corresponding points in another image that has been supplied from image memory along a different source path" (col 2/line 65-col 3/line 10). The data path structure of the present invention is designed to accommodate additional future special function processing units, which may be added to perform additional image processing operations upon the pixel data. These devices may be added to the existing pipeline processor and image combiner units along pipeline data path 42 and connected to image source and destination paths 36A-C and 38A-B in a manner similar to the image combiner. In this manner, a serial stream of pixel data may be routed along selected source paths and/or the pipeline data path to undergo one or more selected image-processing operations during a single pass through the system (col 5/line 58- col 6/line 2).

The breadth and broadness of the claimed term "communication" does not exclude the data thereby does not exclude the pixel data of the applied reference. The claimed term "remote device" has been given the broadest reasonable interpretation meaning a device accessible via a communication link.

The breadth and broadness of the claimed term “remove device” does not exclude the devices added to the image combiner routed thereto via data path 42. The claimed term “communication link” has been applied the broadest reasonable interpretation, meaning a connection or communication means that enables the transfer of data. The breadth and broadness of the claimed term “communication link” does not exclude data path 42 (transmit, i.e. send information over a communication line or a circuit). The transmission of data outputted from the combiner is *automated*, i.e. performed without human intervention. The combiner performs data routing functions (col 15/lines 27-28), the image combiner components are mounted on a single circuit board and employs two calculation units for performing image-to-image operations, which result are placed on image destination path 38 (col 14/lines 44-58), its function are automated, don not require human intervention.

14. Regarding claim 1 rejected under Hollingsworth in view of Ferrel, it is argued that the applied prior art does not teach claim limitation as recited. Specifically, does not teach “automatically transmitting a communication to a remote device through a communication link after editing said image data during execution of said project definition”.

In response to the above-mentioned argument applicant’s interpretation of the applied prior art has been carefully considered. According to applicant’s disclosure pertinent description to this limitation sets forth sending an email by module (131) in response to the occurrence of a predefined condition, such as when the last image produced by the database access module (121) is being processed. A text email notifies a person that all of the image data in question has been processed by the process definition (101) and is available for use (see specification page 56, lines 16-34). Claim limitation has been given the broadest reasonable interpretation inlight of the specification (see MPEP 2111/2106).

Hollingsworth discloses an event notification service to inform the initiating service of activity status changes and completion of activities and/or sub-processes supported, these and other internetworking scenarios will be supported by Workflow Application program interface (WAPI) communication mechanism operations (see p. 43, Fig. 18), this communication mechanism is mapped on to several communication protocols including X.400 i.e. documents the format at the OSI application layer for e-mail messages over various networks transports (see section 4.2, Fig. 20 on p. 47). Workflow (i.e. the computerized facilitation or automation of business process, in whole or part, p. 6) has been closely associated with image systems and many image systems, where image after being captured is often required to be passed between a number of different participants for different purposes within the process, possibly involving interaction with other IT applications, thereby creating a requirement for workflow functionality (see section 2.2.1 on p. 10). Thereby, suggesting automatically transmitting a

communication after processing said image data during execution of said project definition in a workflow system.

Ferrel teaches transmitting a communication after editing image data during the execution of a projection definition, i.e. different process/activities perform within a process. Specifically, transmitting by a publisher (102) a communication, after editing of image to a publication storage (120) (col 9/lines 18-25, 52-58). Editing includes creating/editing image data (col 10/lines 34-49), publisher includes a computer (col 10/lines 17-27) and storage (120) includes a server (col 10/lines 26-30), storing comprising transmission of said image data to a storage device over a network (col 13/lines 9-24, i.e. remotely located). Particularly after editing image data, transmitting a communication data to said storage device (col 17/lines 18-35), over a communication link (col 43/lines 57-63), the steps of storing to said publication storage is automated (col 44/lines 15-28). Ferrel teaches “automatically transmitting a communication to a remote device through a communication link after editing said image data during execution of said project definition”.

Ferrel alone or in combination with Hollingsworth as discuss on claim 1, teach claim limitation as recited, specifically, “automatically transmitting a communication to a remote device through a communication link after editing said image data during execution of said project definition”.

15. Regarding claim 1 rejected under Hollingsworth in view of Ferrel, it is argued that the applied references, are non-analogous art. Specifically, Hollingsworth pertaining to workflow management and Ferrel pertaining to online publication, according to applicant.

In response to the above-mentioned argument, applicant’s interpretation of the applied references has been fully considered. However, it is respectfully noted that according to Applicant’s technical field of the invention (specification p. 1): “This invention relates in general to automated processing of multiple items of data and, more particularly, to a method and apparatus for automatically transmitting a communication during such automated data processing”. The instant invention, according to disclosure further, relates to the process definition of manufacturing a paper or electronic catalog (see specification on p. 14) where processes are represented by modules interconnected and for performing sequential steps of the process.

The teachings of Ferrel pertain to information retrieval in an online network environment. Automated processing of data does not exclude process occurring on an online publication environment. Workflow as defined by Hollingsworth Workflow is concerned with the automation of procedures where documents, information or tasks are passed between participants according to a defined set of rules to

achieve, or contribute to, an overall business goal. Definition – Workflow is the computerized facilitation or automation of a business process, in whole or part. The field of automated processing of information in the Hollingsworth reference is not excluded in applicant's field of endeavor. The teachings of Hollingsworth and Ferrel are pertinent to automated processing of data, thereby within applicant's field of endeavor.

16. Applicant's arguments filed 06/29/05 with respect to claims 11 and 13 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prieto, B. whose telephone number is (571) 272-3902. The Examiner can normally be reached on Monday-Friday from 6:00 to 3:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's Supervisor, Andrew T. Caldwell can be reached at (571) 272-3868. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3800/4700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system, status information for published application may be obtained from either Private or Public PAIR, for unpublished application Private PAIR only (see <http://pair-direct.uspto.gov> or the Electronic Business Center at 866-217-9197 (toll-free).

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PRIMARY EXAMINER